

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #4	CCRB Case #: 201702813	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/11/2017 11:49 AM	Location of Incident: East 15th Street and Union Square East	Precinct: 13	18 Mo. SOL 10/11/2018	EO SOL 10/11/2018	
Date/Time CV Reported Tue, 04/11/2017 2:50 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 04/11/2017 3:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Leonardo Nimo	00511	928869	PBMS SU

Officer(s)	Allegation	Investigator Recommendation
A.POM Leonardo Nimo	Discourtesy: Police Officer Leonardo Nimo spoke discourteously to § 87(2)(b)	
B.POM Leonardo Nimo	Abuse: Police Officer Leonardo Nimo threatened to arrest § 87(2)(b)	
C.POM Leonardo Nimo	Abuse: Police Officer Leonardo Nimo threatened § 87(2)(b) with the use of force.	
D.POM Leonardo Nimo	Abuse: Police Officer Leonardo Nimo refused to provide his name and shield number to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint in person at the Transit District 4 stationhouse on April 11, 2017 (BR 01).

On April 11, 2017, at approximately 11:49 a.m., § 87(2)(b) left the § 87(2)(b) in Manhattan and walked toward the subway entrance at East 15th Street and Union Square East. § 87(2)(b) spoke to his wife on the phone as he walked. PO Leonardo Nimo, who, at the time of the incident, was assigned to Patrol Borough Manhattan South Anti-Crime and was in plainclothes, walked past § 87(2)(b) in the opposite direction. PO Nimo heard § 87(2)(b) make insulting remarks, which he believed were directed at him, though § 87(2)(b) said they were part of his phone conversation. § 87(2)(b) stopped near a food cart, where PO Nimo approached him.

PO Nimo allegedly said, “What the fuck you say to me?” and made a variety of other discourteous statements (**Allegation A**). He identified himself as a police officer, told § 87(2)(b) he could arrest him, and challenged § 87(2)(b) to a fight (**Allegations B and C**).

§ 87(2)(b) entered the Union Square subway station. PO Nimo pursued him and told him he would follow him all the way home. § 87(2)(b) then went to the Transit District 4 stationhouse, located in the Union Square station, to report PO Nimo’s behavior. PO Nimo exited the subway station. § 87(2)(b) exited with several officers from Transit District 4. They found PO Nimo in Union Square Park and the entire group returned to the stationhouse, where § 87(2)(b) filed a complaint about PO Nimo. § 87(2)(b) requested PO Nimo’s name and shield number, which PO Nimo allegedly refused to provide (**Allegation D**). § 87(2)(b) was not arrested or issued a summons.

There is no known video footage of this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of June 15, 2017, no Notice of Claim has been filed in relation to this incident (BR 02).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)’s first CCRB complaint (BR 04).
- PO Nimo has been a member of the service for 15 years. There are seven prior CCRB complaints against him containing 13 allegations, none of which was substantiated. PO Nimo has six prior threat of arrest allegations and two prior discourteous language allegations.

Potential Issues

In his interview, § 87(2)(b) said that a Halal cart operator near the subway entrance witnessed part of the incident. The investigator conducted fieldwork on May 18, 2017, and spoke to two

food cart operators at the location described by § 87(2)(b). Both denied any knowledge of the incident. In his interview, PO Nimo said he was acquainted with that Halal cart operator from working in the area and seeing him regularly. He did not know his name, but provided his phone number, which he had obtained before this incident. The number was called five times between June 8 and 19, 2017. On one occasion, a man answered but said he had poor reception and could not hear the investigator. He said he would call back, but did not do so. During the other four calls, voicemails were left, which he never returned. § 87(2)(g)

Findings and Recommendations

Allegations not pleaded

§ 87(2)(g)

Allegation A – Discourtesy: Police Officer Leonardo Nimo spoke discourteously to § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Leonardo Nimo threatened to arrest § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Leonardo Nimo threatened § 87(2)(b)
with the use of force.

§ 87(2)(b) said he left § 87(2)(b) and walked to the corner of East 15th Street and Union Square East, where he stopped at a food cart (BR 05). He had a hands-free headset on and spoke to his wife on the phone as he walked. During their conversation, § 87(2)(b) complained that his son was acting like “a fucking asshole.”

PO Nimo, who § 87(2)(b) had not notice before, grabbed § 87(2)(b)'s shoulder from behind and said, “You think you tough? What the fuck you say to me?” § 87(2)(b) believed that PO Nimo heard his phone conversation and mistakenly thought that his complaints about his son referred to him. He told PO Nimo that he was not talking to him. PO Nimo said, “Do you know I’m NYPD and I can lock you up for disorderly conduct?” He showed § 87(2)(b) an NYPD identification card and said, “Come around the corner and fight. You think you’re a fucking tough guy? Come fight me.”

§ 87(2)(b) told PO Nimo that he was not doing anything and was not going to fight him. He entered the Union Square subway station, but PO Nimo followed him downstairs to a platform and said, “I’m gonna follow you all the way the fuck home.” After the two argued on the subway platform for some time, § 87(2)(b) went upstairs to the Transit District 4 stationhouse. PO Nimo did not follow him there, but three plainclothes Transit officers – identified by the investigation as PO Ronald Cobilich, PO Raul Maysonet, and PO Amarildo Lamcaj – went outside with § 87(2)(b).

§ 87(2)(b) and found PO Nimo. PO Nimo did not make any discourteous statements or threats of force or arrest in the presence of the other officers.

§ 87(2)(b)'s phone statement, provided about one month before his in person interview, contained slight variations in the wording of PO Nimo's statements, but was generally consistent with the above (BR 06).

PO Nimo said he was walking to the 13th Precinct stationhouse to retrieve papers for a court appearance when he and § 87(2)(b) passed each other on the sidewalk (BR 07). As they passed each other, § 87(2)(b) clenched his fists, stuck out his chest toward him, and said, "Fucking fag." PO Nimo believed this remark was directed to him. § 87(2)(b) had headphones on, but PO Nimo did not know whether he was making a phone call with the headphones.

In his interview, PO Nimo said that he was not personally offended by § 87(2)(b)'s remark, but approached him because § 87(2)(b) seemed like he was "looking to pick a fight with somebody" and he worried that he would "punch somebody in the face just randomly." PO Nimo said he has worked near Union Square for many years and random attacks are common in that area.

Upon approaching § 87(2)(b) PO Nimo displayed his NYPD identification card – he did not have his shield with him – and identified himself as a police officer. PO Nimo denied saying, "What the fuck you say to me?" or using any obscenities during the encounter. Rather, he said, "Did you make any derogatory remarks towards me?" § 87(2)(b) responded, "I was on the fucking phone." PO Nimo asked, "What's with the aggression?" § 87(2)(b) started screaming that PO Nimo was harassing him.

PO Nimo denied challenging § 87(2)(b) to a fight or threatening him with force, but said he asked him, "Are you looking to pick a fight with somebody?" He asked this because of § 87(2)(b)'s agitated behavior. § 87(2)(b) committed no criminal acts in PO Nimo's presence and PO Nimo denied threatening to arrest him. He also noted that he had no handcuffs or radio at the time, so he could not have arrested § 87(2)(b) even if he wanted to.

When § 87(2)(b) entered the subway, PO Nimo followed him because he wanted to make sure he left the area without incident. He told § 87(2)(b) that he would follow him wherever he went. § 87(2)(b) continued yelling, but eventually walked down the subway platform and PO Nimo lost sight of him. PO Nimo exited the subway station and looked for § 87(2)(b) outside. He saw him with three individuals, who he did not initially realize were plainclothes officers. PO Nimo thought the three men were § 87(2)(b)'s friends and that they were planning to jump him. PO Nimo tried to join some uniformed officers he saw in Union Square, but the plainclothes officers rushed toward him. He saw a shield in one of the officer's hands and realized they were police, after which he went to the Transit District 4 stationhouse with them.

Officers must be "courteous and respectful" when interacting with the public. Patrol Guide, Section 203-09 (BR 08). Officers may not make threats of force that serve "no purpose other than to intimidate." Police Department v. Briscoe, OATH Index No. 1328/00 (BR 09). An officer may not threaten to arrest a member of the public unless that officer has probable cause to effect an arrest. PD v. Bradley, Disciplinary Case No. 75419/00 (BR 10).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Police Officer Leonardo Nimo refused to provide his name and shield number to § 87(2)(b)

In his in person interview (BR 05), § 87(2)(b) said that, while PO Nimo walked toward the exit of the Transit District 4 stationhouse, § 87(2)(b) asked, “Yo, can I get your name?” PO Nimo made a dismissive sound and proceeded to the exit. In the interview, § 87(2)(b) initially said he did not ask PO Nimo for his shield number, but later said he did. In a phone statement that § 87(2)(b) provided approximately one month earlier, he made no mention of this allegation (BR 06).

PO Nimo said § 87(2)(b) never requested his name or shield number (BR 07). He denied refusing to provide this information, and noted that he showed § 87(2)(b) his NYPD identification card at the beginning of the encounter.

§ 87(2)(g)

Squad: 4

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date